IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 2ND JANUARY 2007 / 12TH POUSHA, 1928

WP(C).No. 32205 of 2003(H)

PETITIONER:

K.K.SANKARAN CHETTIYAR, SARASWATHI
VILASAM, KUMARANALLOOR P.O.,
PERUMPAIKKATUTUSSERYKARA, PERUMPAIKKADU VILLAGE,
KOTTAYAM.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.N.SASI

RESPONDENTS:

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1. T.K.VISHWANATHAN, THAIPARAMBIL HOUSE,
KOOVAPOYKA MOOZHOOR ROAD, MOOZHOOR P.O.,
KOTTAYAM

2. THE SECRETARY, ETTUMANNOOR SERVICE
CO-OPERATIVE BANK LTD., ETTUMANNOOR.

3. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.M.SEBASTIAN
GOVERNMENT PLEADER
SRI.RAJEEV V.KURUP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.9C032205/03

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF ORDER OF HIGH COURT OF KERALA IN CRL.M.P.6577/02 IN CRL.M.C.8380/02 DATED 20.9.02.

EXT.P2: TRUE COPY OF PLAINT IN O.S.32/97 ON THE FILE OF SUB COURT, KOTTAYAM.

EXT.P3: TRUE COPY OF JUDGMENT OF HON'BLE HIGH COURT IN O.P.28012/02 DATED 30.9.02.

EXT.P4: TRUE COPY OF ORDER OF ADDL. SUB COURT, KOTTAYAM IN I.A.2402/03 IN O.S.32/97 DATED 15.9.03.

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.32205 OF 2003

DATED THIS THE 2nd DAY OF JANUARY, 2007

JUDGMENT

Petitioner is the first plaintiff in O.S.32/97 on the file of Sub Court, Kottayam. Respondents are the defendants. Petitioner filed I.A.2402/03 to adjourn the trial of the suit, till disposal of S.C.83/99 pending before Asst. Sessions Court, Kottayam. Under Ext.P4 order, learned Sub Judge dismissed the application. It is challenged in this petition filed under Article 227 of Constitution of India.

2. Learned Counsel appearing for petitioner and respondents were heard.

3. The case of petitioner was that S.C.83/99 is pending before Asst. Sessions Court, Kottayam and the charge therein against first respondent is that he committed offences under Section 498A and 306 of Indian Penal Code by causing the death of his wife and minor child, who are the daughter and minor grand child of plaintiffs and if before disposal of the Criminal case, evidence is to be recorded in the suit it would prejudice the plaintiffs. Learned Sub Judge under Ext.P4 order found that the judgment of the criminal court is relevant only for the limited purpose as provided under Section 43 of the Evidence Act and

the trial of the suit cannot be adjourned as sought for. I find no illegality or irregularity in the finding of learned Sub Judge. The other ground alleged by plaintiffs to adjourn the trial was non availability of the witnesses and the documents. Ext.P4 order was passed as early as 15.9.03. Sufficient time has already been obtained by petitioner.

In such circumstances, petition is dismissed.

M.SASIDHARAN NAMBIAR,JUDGE

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